

**GOVERNMENT OF ANDHRA PRADESH**

**ABSTRACT**

Public Services – Treasuries and Accounts (Gazetted) Services – Sri N.Mohan Rao, Additional Director at present working on deputation as Municipal Finance Expert. O/o the APUFIDC Hyderabad – A.P.A.T. Order in O.A.No. 10449/2009 dated 28-04-2010 - Restoration of seniority in the category of Additional Director – Orders – Issued.

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**FINANCE (ADMN.I.) DEPARTMENT**

**G.O.Ms.No. 179**

**Dated: 17 -05-2010**  
**Read the following:-**

1. G.O.Rt.No.205, Finance (Admn.I) Department dt.05-08-2009.
2. Interim Orders of the Hon'ble APAT in OA.No.10449/2009 dt. 15/9/2009.
3. G.O.Ms.No.304, Finance (Admn.I) Department dt.10-12-2009
4. Final Orders of the Hon'ble APAT dated 28-04-2010 in OA.No.10449/2009 with VMAS 2043 & 2077/2009.
5. Representation of Sri N.Mohan Rao, Additional Director dated 28-04-2010 along with the copy of the Final Orders of the Hon'ble APAT in OA.No.10449/2009 with VMAS 2043 & 2077/2009.

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**ORDER:**

In the G.O.1<sup>st</sup> read above, Government have restored the original seniority of Sri N. Mohan Rao above and over Sri K.Bheema Reddy by conducting review DPC for the panel year 2002-2003 in the cadre of Joint Director after following due procedure required under A.P. State and Sub-Ordinate Service Rules 1996 by taking into consideration the working strength of Joint Director of Treasuries and Accounts (12) instead of sanctioned strength (7) and in perspective of over all assessment and taking into consideration of the rule of reservation in promotions for SC/ST.

2. Aggrieved with the above orders, Sri K.Bheema Reddy, Joint Director filed an O.A.No. 10449/2009. The Hon'ble APAT in it's interim orders suspended the impugned order in G.O. Ms.No.205, Finance (Admn.1) Department dated 5.9.2009.

3. In the reference 3<sup>rd</sup> cited, Government, approved the following panel of Joint Directors for promotion to the category of Additional Director during the panel year 2009-10 based on the recommendations of the DPC subject to outcome of the W.Ps/ W.As/R.Ps/O.As.C.As if any pending before the A.P. Administrative Tribunal /Courts etc.

1. Sri.G.Vijay Kumar
2. Sri.K.Bheema Reddy
3. Sri.N.Mohan Rao
4. Sri K.S.R.C.Murthy

4. The Hon'ble APAT in its final orders in OA.No.10449/2009 dated 23/04/2010, observed as follows:

*Heard both sides perused the material on record:*

*The factum of DPC, subsequent review DPC, restoration of notional seniority to the applicant on par with the 2<sup>nd</sup> respondent are no in dispute. The only question that falls for consideration is:*

*Whether G.O.Ms.No.205 dated 5-8-2009 is valid in the light of the provisions contained in G.O.Ms.No.5 dated 14.2.2003 and subsequent amendments issued to Rule 22 for the General Rules”*

*Admittedly, the Government initially issued executive instructions in G.O.Ms.No.5 dated 14-2-2003 for implementation of rule of reservation in promotions in favour of scheduled castes and scheduled tribes. No doubt, panel for the year 2002-2003 for promotion to the post of Joint Director was prepared. The panel was notified vide G.O.Rt.No.240, Finance dated 5-2-2003, but the fact remains that no incumbent shown in the panel was appointed as Joint Director. Therefore, the respondents, in accordance with the provisions contained in the executive instructions, have decide to review the panel for the year 2002-2003 and issued G.O.Rt.No.1998 dated 18.8.2003 approving the recommendations of the review DPC.*

*The respondents entertained the application of the applicant and promoted the applicant notionally on the ground that the adequacy had been achieved by taking into consideration the total cadre strength of Joint Director as seven (7) . The 2<sup>nd</sup> respondent made representation and the said representation was entertained by the respondents. In this regard, the respondents have relied upon the decisions of the Hon'ble Supreme Court in the case of P.S. Mahal Vs Union of India reported in 1984(4) SCC 345 which has been extracted at Para 7(b) of G.O.Ms.No.205 dated 5-8-2009. I have perused the said decision. For the purpose of quota rule, the Hon'ble Supreme Court has held that deputation vacancy has to be taken into account for the purpose of computation of quota rule. The said analogy has been employed by the respondents in the case of computation of vacancies for the purpose of deciding the cadre strength.*

*It is seen that the respondents have calculated following eleven (11) vacancies as working strength of Joint Directors for the panel year 2002-2003.*

Sl. No.	Name of the Joint Director	Since
1	G.Guru Raju (SC)	2.9.1993
2	N.C.Nagarjuna Reddy	5.8.1993
3	D.Tavudu	13.10.1995
4	K.Kanakavalli	4.3.1997
5	G.Veeranna	1.3.1997
6	G.P.Prasada Rao	20.8.1998
7	K.V.Ramam (Rtd.) 30.9.2003	5.7.1997
8	C.S.Rammohan Rao	17.8.1998
9	G.Vijaykumar	17.2.2001
10	K.Venkateswara Rao	2.2.2002
11	L.Subuddi	16.9.2002

*Further, the Government has amended the orders in G.O.Ms.No.5, Social Welfare Department dated 14.2.2003 and G.O.Ms.No.26 dt.20.2.2009 and have incorporated following provisions:*

***“(h) For the purpose of achieving adequacy of SCs/STs in service, the rule of Reservation in making in charge arrangements in exigencies of administration for holding higher promotional posts shall be followed, whenever such arrangements are made after obtaining relaxation of Rule 10(h) of A.P. State and Sub- ordinate Services, 1996”.***

***Note: The in charge arrangements for holding higher promotional posts/ adhoc promotions already made by observing the rule of reservation in favour of SC/STs shall be continued to achieve the objectives of implementation of rule of reservation in favour of Scheduled Castes/ Scheduled Tribes in Services”***

*Thus, in the light of the aforesaid amendments , the respondents have rightly taken into consideration, the working strength of Joint Directors including deputation in other departments, organizations and even also the in charge arrangements and adhoc promotions caused due to exigencies of administration . Thus, this Tribunal cannot find fault with the respondents in*

*calculating the cadre strength for the purpose of implementation of rule of reservation. If the cadre strength is eleven (11), necessarily, there shall be one more vacancy in favour of Scheduled caste candidate. That is how, the respondents have done completed justice to the 2<sup>nd</sup> respondent.*

*I have perused the Rule 25 of the General Rules. General Rule vests power in the Government to review the decision already rendered. The contention of the applicant that there is no second review under Rule -25 cannot be accepted as there is no prohibition in the said rule. When there is palpable injustice noticed by the Government, the Government on its own, suo-motu or on an application filed by the aggrieved party, can review the orders of the promotion. Squarely, the same thing has been done. It is noticed that when the applicant made a representation, it was highly belated representation. The respondents, ought to have thrown out the representation on the ground of limitation. Be that as it may, the respondents have entertained the application made by the applicant; however subsequently, on the basis of the representation of the 2<sup>nd</sup> respondent, the due position of the 2<sup>nd</sup> respondents has been restored. Further, it seen that when the 2<sup>nd</sup> respondent made representation, the applicant was put on notice and after taking into consideration the explanation submitted by the applicant, the respondents have passed orders by taking into consideration the functional strength and have promoted the applicant at SC reservation point –No.2*

***Thus, view from any angle; the impugned orders do not suffer from any illegality. They are perfectly legal, valid and does not call for any interference***

***OA is devoid of merits and is, accordingly, dismissed. Interim orders are vacated. VMAs are allowed.***

5. In the reference 5<sup>th</sup> cited, Sri N.Mohana Rao, Additional Director, who is presently working on deputation as Municipal Finance Expert, O/o the APUFIDC, Hyderabad, while furnishing a copy of the final orders of Hon'ble APAT in **OA.No.10449/2009 filed by Sri K.Bheema Reddy has requested to issue orders restoring his seniority by placing him above Sri K. Bheema Reddy in the category of the Additional Director.**

6. Government, after careful examination of the matter and keeping in view of the orders of Hon'ble APAT dated 23-04-2010 hereby assign seniority to Sri N. Mohan Rao by placing his name above Sri K.Bheema Reddy, in the category of Additional Director for the panel year 2009-2010 as indicated below:

1. Sri G.Vijay Kumar
2. Sri N. Mohana Rao
3. Sri K. Bheema Reddy
4. Sri K.S.R.C.Murthy

7. The Director of Treasuries and Accounts shall take necessary action in the matter accordingly.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)**

**L.V.SUBRAHMANYAM  
PRINCIPAL SECRETARY TO GOVERNMENT (FP)**

To

The individuals through the Director of Treasuries and Accounts, Hyderabad.

The Director of Treasuries and Accounts, Hyderabad.

SF/SC

**//FORWARDED::BY ORDER//**

**SECTION OFFICER**